

# City of Delray Beach

## Regular Commission Meeting

\*\*\*AGENDA RESULTS\*\*\*



### RULES FOR PUBLIC PARTICIPATION

Tuesday, July 15, 2008

Regular Meeting 6:00 p.m.  
Public Hearings 7:00 p.m.  
Commission Chambers  
Delray Beach City Hall

**1. PUBLIC COMMENT:** The public is encouraged to offer comments with the order of presentation being as follows: City Staff, public comments, Commission discussion and official action. City Commission meetings are business meetings and the right to limit discussion rests with the Commission. **Generally, remarks by an individual will be limited to three minutes or less.** The Mayor or presiding officer has discretion to adjust the amount of time allocated.

- A.** Public Hearings: Any citizen is entitled to speak on items under this section.
- B.** Comments and Inquiries on Non-Agenda Items from the Public: Any citizen is entitled to be heard concerning any matter within the scope of jurisdiction of the Commission under this section. The Commission may withhold comment or direct the City Manager to take action on requests or comments.
- C.** Regular Agenda and First Reading Items: Public input on agendaed items, other than those that are specifically set for a formal public hearing, shall be allowed when agreed by consensus of the City Commission.

**2. SIGN IN SHEET:** Prior to the start of the Commission Meeting, individuals wishing to address public hearing or non-agendaed items should sign in on the sheet located on the right side of the dais. If you are not able to do so prior to the start of the meeting, you may still address the Commission on an appropriate item. The primary purpose of the sign-in sheet is to assist staff with record keeping. Therefore, when you come up to the podium to speak, please complete the sign-in sheet if you have not already done so.

**3. ADDRESSING THE COMMISSION:** At the appropriate time, please step up to the podium and state your name and address for the record. All comments must be addressed to the Commission as a body and not to individuals. Any person making impertinent or slanderous remarks or who becomes boisterous while addressing the Commission shall be barred by the presiding officer from speaking further, unless permission to continue or again address the Commission is granted by a majority vote of the Commission members present.

### APPELLATE PROCEDURES

Please be advised that if a person decides to appeal any decision made by the City Commission with respect to any matter considered at this meeting, such person will need to ensure that a verbatim record includes the testimony and evidence upon which the appeal is based. The City neither provides nor prepares such record.

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The City will furnish auxiliary aids and services to afford an individual with a disability an opportunity to participate in and enjoy the benefits of a service, program, or activity conducted by the City. Contact Doug Smith at 243-7010, 24 hours prior to the event in order for the City to accommodate your request. Adaptive listening devices are available for meetings in the Commission Chambers.

1. **ROLL CALL.**
2. **INVOCATION.**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG.**
4. **AGENDA APPROVAL.** (Mayor noted Item 8.A., Acceptance of Water Easement Deed/N.E. 5<sup>th</sup> Avenue was pulled from the agenda; Item 8.F., Ratification of Appointments to the Parking Management Advisory Board was pulled from the agenda; Item 9.L, Change Order No. 2/BSA Corporation/City Hall Interior Renovations Project/IT Remote Building Project was added to the Regular Agenda by addendum; Item 9.M., Reconsideration of Appointment to the Downtown Development Authority was added to the Regular Agenda by addendum and was moved to Item 9.H.H; Item 10.A., Development Agreement/Vista Del Mar, L.L.C., was removed from the agenda due to a request from Vista Del Mar, L.L.C.; and Item 8.N., Review of Appealable Land Development Board Actions was moved to the Regular Agenda as Item 9.A.A; Approved as amended, 5-0)
5. **APPROVAL OF MINUTES:**
  - A. July 1, 2008 – Regular Meeting (Approved, 5-0)
  - B. July 8, 2008 – Workshop Meeting (Approved, 5-0)
6. **PROCLAMATIONS:**
  - A. Recognizing and commending **Carole R. Shetler** for 34 years of dedicated service at the School District of Palm Beach County and her many contributions to the Delray Beach Community
7. **PRESENTATIONS:**
  - A. Recognizing **Lula Butler** for her participation as a case study presenter in the Transforming Local Government Conference
  - B. S.P.I.R.I.T. (Service, Performance, Integrity, Responsibility, Innovation, Teamwork) Committee Quarterly Awards Presentation
  - C. **RESOLUTION NO. 29-08:** Approve Resolution No. 29-08 recognizing and commending Commissioner Brenda Montague for her dedicated public service to the City of Delray Beach (Approved, 5-0)
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 5-0)
  - A. **ACCEPTANCE OF WATER EASEMENT DEED/N.E 5<sup>TH</sup> AVENUE:** Approve and accept a water easement deed for the installation of a fire hydrant on the west side of N.E. 5<sup>th</sup> Avenue. **(PULLED)**

- B. **CONTRACT CLOSEOUT (C.O. NO. 7/FINAL)/CHAZ EQUIPMENT COMPANY, INC/BLOCK 64 WATER MAIN IMPROVEMENTS PROJECT:** Approve a Contract Closeout (C.O. No. 7/Final) in the amount of a \$9,668.50 decrease and final payment in the amount of \$11,314.57 to Chaz Equipment Company, Inc. for the completion of the Block 64 Water Main Improvements Project. Funding is available from 442-5178-536-65.33 (Water/Sewer Renewal and Replacement Fund/Other Improvements/Block 64).
- C. **CONTRACT CLOSEOUT (C.O. NO. 2/FINAL)/RANDOLPH AND DEWDNEY CONSTRUCTION, INC./POMPEY PARK IMPROVEMENTS PROJECT:** Approve a Contract Closeout (C.O. No. 2/Final) in the amount of a \$462.62 decrease and final payment in the amount of \$60,291.99 to Randolph & Dewdney Constructions, Inc. for the completion of the Pompey Park Community Center Improvements Project. Funding is available from 380-4150-572-62.61 (2004 G.O. Bond/Buildings/Pompey Park Expansion).
- D. **SUPPLEMENTAL NO. 3 TO SERVICE AUTHORIZATION NO. 2/CH2M HILL/POMPEY PARK BUILDING IMPROVEMENTS PROJECT:** Approve Supplemental No. 3 to Service Authorization No. 2 in the amount of \$3,000.00 to CH2M Hill regarding the Pompey Park Building Improvements. Funding is available from 380-4150-572-62.61 (Parks & Recreation/Pompey Park Expansion).
- E. **AMENDMENT NO. 1 TO THE DISASTER RECOVERY INITIATIVE AGREEMENT/PALM BEACH COUNTY:** Approve Amendment No. 1 to the agreement between the City and Palm Beach County for Disaster Recovery Initiative (DRI) funding of the extension of Mango Road/S.W. 7<sup>th</sup> Avenue project extending the deadline for completion to December 31, 2008.
- F. **RATIFICATION OF APPOINTMENTS TO THE PARKING MANAGEMENT ADVISORY BOARD:** Approve and ratify the reappointments of Mr. Peter Arts, Community Redevelopment Agency Representative (alternate member) and Mr. David Cook, Chamber of Commerce Representative (regular member) to the Parking Management Advisory Board for terms ending July 31, 2010. **(PULLED)**
- G. **RESOLUTION NO. 26-08:** Approve and adopt Resolution No. 26-08 providing that the City of Delray Beach will apply to be designated as a Preserve America Community.
- H. **APPLICATION/COMMERCIAL EQUIPMENT DIRECT ASSISTANCE PROGRAM (CEDAP):** Approve and authorize submission of an application to the Department of Homeland Security, Urban Area Security Initiative (UASI) for the “dTECTive Forensic Video Evidence Enhancement Clarification and Analysis System in an estimated value of \$10,000.00 for the Police Department. Funding is available from 001-2115-521-46.20 (General Fund/Equipment Maintenance).

- I. **LEASE AGREEMENT/T-MOBILE/TELECOMMUNICATIONS TOWER AT BARWICK PARK:** Approve a lease agreement between the City and T-Mobile providing T-Mobile will pay the City a monthly rental fee of \$1,800.00 with a 3% annual increase in the rental fee, plus 30% of the gross monthly rent received by T-Mobile for each subtenant co-locating on the tower; and the City shall lease an area not to exceed 800 square feet to allow T-Mobile to construct a 90 foot stealth flagpole communications tower (monopole) at Barwick Park.
- J. **FLORIDA RECREATION DEVELOPMENT ASSISTANCE PROGRAM (FRDAP) GRANT/DELRAY BEACH FAMILY RECREATION AND FITNESS CENTER:** Approve an agreement between the City and the Florida Department of Environmental Protection for a reimbursable grant from the Florida Recreation Development Assistance Program (FRDAP) in the amount of \$61,025.00 and the City match of \$20,342.00 for construction of the playground area at the Delray Beach Family Recreation and Fitness Center. Funding is available from 334-4148-572-68.44 (General Construction Fund/Other Improvements/Family Recreation Playground Area).
- K. **SPECIAL EVENT REQUEST/10<sup>th</sup> ANNUAL GARLIC FESTIVAL:** Approve a special event request for the 10<sup>th</sup> Annual Garlic Festival to be held on the grounds of Old School Square on February 13 -15, 2009, and to grant a temporary use permit per LDR's Section 2.4.6(F) for use of City rights-of-way to include NE 1<sup>st</sup> Avenue from Atlantic to the grass area at Old School Square, Swinton Avenue from Atlantic to NE 1<sup>st</sup> Street, the southwest section of the Old School Square parking lot, from 6:00 a.m., February 12 through midnight, February 15, 2009 and use of the Old School Square Parking Garage, CRA parking lots in block 60, the City Attorney lot and the County Parking Garage and Library lots for event parking , and authorize staff support for traffic control and security, EMS assistance, barricading, banner hanging, signage preparation and installation, site clean up and trash removal, City generator use, and waiver of the two (2) hour parking limit in the downtown area during the event; subject to the conditions outlined in the staff report.
- L. **SPECIAL EVENT REQUEST/5<sup>TH</sup> ANNUAL FAMILY FUN DAY AT POMPEY PARK:** Approve a special event request for the 5<sup>th</sup> Annual Family Fun Day at Pompey Park co-produced by the Parks and Recreation Department and Roots Cultural Festival Inc. proposed to be held August 2, 2008 at Pompey Park from 4:00 p.m. to 11:00 p.m. and authorize staff support for security, trash removal and clean up assistance, trash boxes, use of the large City stage, City generator use, preparation and installation of event signage, and EMS assistance, if required by the Fire Department.

M. **SPECIAL EVENT REQUEST/SAINT PATRICK'S DAY PARADE:** Approve a special event request to conduct the 41<sup>st</sup> Annual Saint Patrick's Day Parade proposed to be held on Saturday, March 14, 2009 beginning with set up at 11:00 a.m., parade starting at 1:00 p.m. and ending at approximately 3:00 p.m. and event at Old School Square from 11:00 a.m. to 7:30 p.m., and to grant a temporary use permit per LDR's Section 2.4.6(F) for the use of Atlantic Avenue from Venetian Drive to NW 1<sup>st</sup> Avenue for the parade and Venetian Drive and Gleason Street for staging of parade entries; and to approve staff support for traffic control and security, barricading, trash removal, EMS assistance, use of a City generator, use of the small stage, assistance in obtaining the FDOT permit and to allow event signage to be put up 10 days prior to the event; subject to the conditions listed in the staff report.

N. **(MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA).**

O. **AWARD OF BIDS AND CONTRACTS:**

1. Contract award to Berg Demolition, Inc. in the amount of \$20,025.00 for the demolition of four (4) structures, subject to execution of the City's standard agreement and approval by the City Attorney. Funding is available from 118-1965-554-34.35 (Community Development/Other Contractual Services/Unsafe Buildings/Structures).
2. Purchase award to Dell Corporation in the amount of \$37,417.45 through Florida State Contract # 250-000-03-1 for the purchase of additional disk storage space for the Storage Area Network (SANS). Funding is available from 334-6112-519-64.11 (General Construction Fund/Professional Services/Other Professional Services) and 441-5161-563-64.11 (Water and Sewer Fund/Professional Services/Other Professional Services).

9. **REGULAR AGENDA:**

A.A. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period June 30, 2008 through July 11, 2008. (Commissioner Eliopoulos declared Conflict of Interest and left the dais. Motion approve; Approved, 4-0)

A. **WAIVER REQUEST/ALOHA CLEANERS:** Consider a waiver request to Land Development Regulations (LDR) Section 4.3.4(H)(6)(b)(2), "Special Landscape Setbacks", which requires a 10 foot landscape setback along Federal Highway in association with the Aloha Cleaners Development Proposal. Aloha Cleaners is located at 501 N.E. 2<sup>nd</sup> Street. (*Quasi-Judicial Hearing*) (Commissioner Eliopoulos returned to the dais. Motion to adopt Board Order as presented; Approved, 5-0)

B. **WAIVER REQUEST/WAL-MART:** Consider a waiver request to Land Development Regulations (LDR) Section 4.6.9(D)(3)(a), "Point of Access to the Street System", which allows for a maximum driveway width of up to 36 feet (48 feet proposed), for Wal-Mart, located at 16205 South Military Trail. (*Quasi-Judicial Hearing*) (Motion to adopt Board Order as presented; Approved, 5-0)

- C. **WAIVER REQUEST/La CIGALE RESTAURANT:** Consider a request for waiver of Land Development Regulations (LDR) Sections 4.6.7 (E)(3)(c)(2), “Allowed Totally in Standard Setback”, governing the size and placements of signs related to the La Cigale Restaurant, located at 253 S.E. 5<sup>th</sup> Avenue. *(Quasi-Judicial Hearing)* (Motion to adopt Board Order as presented; Approved, 5-0)
- D. **PARKING LICENSE AGREEMENT/CAFFE LUNA ROSA, INC.:** Consider approval of a parking license agreement with Caffe Luna Rosa which amends the language in Paragraph 16, “Assignment” to provide that the agreement may be assigned with the express written consent of the City Manager or his/her designee; and also combines the agreements entered into on April 1, 2007 and April 1, 2008 to provide for one complete agreement. (Motion to approve the Parking License Agreement; Approved, 5-0)
- E. **RESOLUTION NO. 28-08:** Consider approval of Resolution No. 28-08 amending Resolution No. 67-07 which created the Green Task Force in order to provide an extension of time to November 27, 2008. (Approved, 5-0)
- F. **SPONSORSHIP REQUEST/FLORIDA TRUST FOR HISTORIC PRESERVATION 2009 CONFERENCE):** Consider a request for funding a sponsorship of the Florida Trust for Historic Preservation 2009 State Conference to be held in Palm Beach County. Funding is available from 001-1111-511-34.90 (General Fund/Other Contractual Services). (Motion to approve; Approved, 5-0)
- G. **FILLING UNEXPIRED TERM OF COMMISSIONER MONTAGUE:** Provide direction regarding the process for filling the unexpired term of Commissioner Brenda Montague. (Consensus of the Commission to submit all letters along with a resume received from interested candidates to the City Manager by July 29, 2008)
- H. **BID AWARD/SPORTS TURF ONE, INC.:** Consider a bid award to Sports Turf One, Inc., second low bidder, in the total annual cost of \$56,400.00 for landscape maintenance of approximately 8.7 acres of property at the Seacrest Soccer Complex. Funding is available from 001-4131-572-34.90 (General Fund/Other Contractual Services). (Motion to approve the Bid Award to Sports Turf One, Inc.; Approved, 5-0)
- H.H. **RECONSIDERATION OF APPOINTMENT TO THE DOWNTOWN DEVELOPMENT AUTHORITY:** Reconsideration of a board member appointment to the Downtown Development Authority (DDA) made by Commissioner McDuffie on July 1, 2008. *(ADDENDUM)*. (Motion to reconsider the appointment to the Downtown Development Authority made by Commissioner McDuffie on July 1, 2008. Second motion to rescind the appointment to the Downtown Development Authority; Approved, 5-0)

- I. **APPOINTMENTS TO THE EDUCATION BOARD:** Appoint five (5) regular members to the Education Board for two (2) year terms ending July 31, 2010. Based upon the rotation system, the appointments will be made by Commissioner Eliopoulos (Seat #1), Commissioner Fetzer (Seat #2), Commissioner McDuffie (Seat #3), Commissioner Montague (Seat #4) and Mayor Ellis (Seat #5). (Appointed Kenneth Zeno and approved, 5-0; appointed Harold Van Arnem and approved, 5-0; and appointed Gerald Crocilla and approved, 5-0; appointed Derline Pierre-Louis and approved, 5-0; and appointed Sandra Weatherspoon and approved, 5-0)
- J. **APPOINTMENTS TO THE PUBLIC ART ADVISORY BOARD:** Appoint three (3) regular members to the Public Art Advisory Board to serve two (2) year terms ending July 31, 2010. Based upon the rotation system, the appointments will be made by Mayor Ellis (Seat #5), Commissioner Eliopoulos (Seat #1) and Commissioner Fetzer (Seat #2). (Appointed Richard McGloin and approved, 5-0; appointed Dana Donaty and approved, 5-0; and appointed Michiko Kurisu and approved, 5-0)
- K. **APPOINTMENT TO THE PUBLIC EMPLOYEES RELATIONS COMMISSION:** Appoint one (1) regular member to the Public Employees Relations Commission to serve an unexpired term ending August 1, 2012. Based upon the rotation system, the appointment will be made by Commissioner Fetzer (Seat #2). (Appointed Edward Desmond and approved, 5-0)
- L. **CHANGE ORDER NO. 2/BSA CORPORATION/CITY HALL INTERIOR RENOVATIONS PROJECT/IT REMOTE BUILDING PROJECT:** Consider approval of Change Order No. 2 in the amount of \$39,909.00 to BSA Corporation regarding the new Information Technology (IT) Remote Building Project. Funding is available from 334-6112-519-62.85 (General Construction Fund/Capital Outlay/City Hall Exp-IT Building) and 334-6112-519-62.86 (General Construction Fund/City Hall-North Wing). (***ADDENDUM***). (Motion to approve deleting trellis allocation; Approved, 5-0)
- M. **(MOVED TO ITEM 9.H.H. ON THE REGULAR AGENDA).**
10. **PUBLIC HEARINGS:**
- A. **DEVELOPMENT AGREEMENT/VISTA DEL MAR, L.L.C.:** Consider a development agreement with Vista Del Mar, L.L.C and associated Class V Site Plan for the property located at 64 South Ocean Boulevard. (***Quasi-Judicial Hearing***) (**REMOVED** from the agenda due to a request from Vista Del Mar, L.L.C.)
- B. **COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ANNUAL ACTION PLAN (FY 2008 - 2009):** Consider approval of the Community Development Block Grant (CDBG) Annual Action Plan required by the United States Housing & Urban Development Department (HUD) for utilization of federal grant funds. (Motion to approve; Approved, 5-0)

- C. **ORDINANCE NO. 17-08 (FIRST READING/TRANSMITTAL HEARING FOR COMPREHENSIVE PLAN AMENDMENT 2008-1)**: Consider on first reading an ordinance adopting Comprehensive Plan Amendment 2008-1 and associated Future Land Use Map (FLUM) amendments, and authorize transmittal to the State Department of Community Affairs. Amendment 2008-1 includes: (Motion to approve Ordinance No. 17-08; Approved, 5-0)

A. Text Amendments:

- i. Update Introduction and support data throughout all the Elements of the Comprehensive Plan as appropriate to reflect current conditions; update all maps as appropriate to reflect current city boundaries; update all maps and tables as appropriate; and, update the Goals, Objectives and Policies as required to modify partially completed or eliminate completed initiatives and to incorporate appropriate changes to goals and objectives gleaned from the EAR public hearing processes.
- ii. Future Land Use Element - Update existing land use and population data, including supporting maps and tables.
- iii. Future Land Use Element -Update vacant land analysis.
- iv. Future Land Use Element-Update Redevelopment Analysis section to reflect completion of all Redevelopment Plans.
- v. Future Land Use Element - Update descriptions for all land use categories to include intensities and densities.
- vi. Future Land Use Element - Add new policies to achieve an appropriate mix of uses, direct resources to infrastructure improvements downtown, and explore additional downtown open space opportunities.
- vii. Future Land Use Element - Add policies to affirm the City's continued commitment to workforce housing.
- viii. Future Land Use Element - Add policies to develop design guidelines for the North Federal Highway area and evaluate the need for guidelines in the Congress Avenue Corridor and Four Corners Area.
- ix. Future Land Use Element - Amendment to the Land Use Designation/Zoning Matrix table to add SAD, OS and OSR zoning districts to be consistent with additional Future Land Use categories.
- x. Transportation Element -Add new policy to designate the railroad parking lot, north of East Atlantic Avenue as a potential railroad stop for future passenger service on the FEC Railroad.
- xi. Housing Element -Update Affordable Housing section to reflect new City initiatives.

- xii. Housing Element Add new policies to affirm the City's continued commitment to workforce housing.
- xiii. Public Schools Facilities Element - Update element to reflect changes related to the second amendment to the Interlocal Agreement.

B. Future Land Use Amendments Map:

- i. City initiated Future Land Use Map amendment from County INST/18 (Institutional, with an underlying High Residential 18 units per acre) to City CF (Community Facilities) for Fair Oaks Center, located approximately 650 feet south of Linton Boulevard, and on the east side of LWDD E-3 Canal.

D. **RESOLUTION NO. 25-08:** Approve Resolution No. 25-08 establishing a budget for the Stormwater Utility System, establishing the rates for FY 2009 Stormwater Management Assessments, and certifying and adopting the Stormwater Assessment Roll. (Approved, 5-0)

E. **ORDINANCE NO. 28-08:** Privately initiated amendments to the Land Development Regulations (LDR), by amending Section 2.2.6(D), "Duties, Powers, And Responsibilities"; Section 4.5.1(J), "Historic Preservation Board To Act On Variance Requests", to provide that appeals of decisions of the Historic Preservation Board regarding variances shall be to the City Commission. **(REQUEST POSTPONEMENT TO AUGUST 5, 2008 DUE TO NEED FOR FURTHER ADVERTISING)** (Motion to **POSTPONE** Ordinance No. 28-08 to a date certain of August 5, 2008, Regular Meeting; Approved, 5-0)

11. **COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS FROM THE PUBLIC- IMMEDIATELY FOLLOWING PUBLIC HEARINGS.**

- A. City Manager's response to prior public comments and inquiries.
- B. From the Public.

12. **FIRST READINGS:**

A. **ORDINANCE NO. 32-08:** An ordinance amending Chapter 35, "Employee Policies and Benefits", Subheading "Retirement Plan", of the Code of Ordinances by amending Section 35.097, "Retirement Income; Basis, Amount and Payment", providing up to one (1) additional year of credited service for certain employees who elect to terminate City employment and retire on or before September 30, 2008. If passed, a public hearing will be scheduled for August 5, 2008. (Motion to approve Ordinance No. 32-08 as amended; Approved, 5-0)

- B. **ORDINANCE NO. 31-08:** An ordinance amending Chapter 51, “Garbage and Trash” of the Code of Ordinances by amending Section 51.01, "Definitions", Section 51.16, “Exceptions in Certain Areas and for Certain Types of Collection Services”, Section 51.19, “Industrial and Hazardous Waste Disposal”, Section 51.20, “Building Materials”, Section 51.35, “Containers Required for Residential and Commercial Sites”, Section 51.37, “Use of Other Units and Containers”, to clarify certain definitions and terms regarding recycling and roll-off containers to provide that they are consistent with State Law and the City’s Franchise Agreement; amending Section 51.45, “Construction and Demolition Sites”, to provide for the Non-Exclusive Collection Of Construction and Demolition Debris and to provide for regulations governing such collection. If passed, a public hearing will be scheduled for August 5, 2008. (Motion to approve Ordinance No. 31-08 as amended to encourage C&D Recycling; Approved, 5-0)

13. **COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS.**

- A. City Manager
- B. City Attorney
- C. City Commission

POSTED: JULY 11, 2008